

REMARKS

Claims 1-20 are all of the pending claims, with claims 1, 18, and 20 being written in independent form. By virtue of this Amendment, Applicant adds new claims 18-20.

I. Allowable Subject Matter:

The Examiner indicates that claims 12, 13 and 14 would be allowable if they were rewritten in independent form. Applicant does not, however, rewrite the claims as suggested by the Examiner because independent claim 1 is believed to be patentable for the reasons discussed in detail below.

II. Claim Rejections on Prior Art Grounds:

The Examiner the claims on numerous combinations of references. In particular, the Examiner rejects:

1. claims 1, 3, 5, 8 and 11 under 35 USC §102(b) as being anticipated by NL 8701577 to van der Bend (“van der Bend”);
2. claims 2, 4 and 17 under 35 USC §103(a) as being obvious over van der Bend in view of US 3,894,531 to Saunders, Jr. (“Saunders”);
3. claim 6 under 35 USC §103(a) as being obvious over van der Bend in view of US RE37,934 to Hoffman (“Hoffman”);
4. claim 7 under 35 USC §103(a) as being obvious over van der Bend in view of US 5,944,662 to Schoendorfer (“Schoendorfer”);
5. claims 9 and 10 under 35 USC §103(a) as being obvious over van der Bend in view of US 5,874,226 to Zeytinoglu et al. (“Zeytinoglu”); and
6. claims 15 and 16 under 35 USC §103(a) as being obvious van der Bend in view of US 6,142,954 to Anhäuser et al. (“Anhäuser”).

Applicant respectfully traverses all of these rejections in view of the following remarks.

A. Independent claim 1

Independent claim 1 defines (among other things) a frame-shaped foam plastic layer “*secured on top of and embracing the filter element.*” An example, non-limiting embodiment of this feature is depicted in Fig. 2. Here, the filter element 17 is secured to the carrier 10, and the frame-shaped foam plastic layer 24 is secured on top of the filter element 17. At least the “*secured on top of and embracing*” feature (as recited in independent claim 1), in

combination with the other features recited in independent claim 1, is not taught or suggested by the prior art relied upon by the Examiner.

To be an “*anticipation*” rejection under 35 USC §102, the reference must teach each and every element and feature of the Applicant’s claims. Rejections under 35 USC §102 are proper only when the claimed subject matter is identically disclosed or described in the prior art. Thus, the reference must clearly and unequivocally disclose each and every element and feature of the claimed invention.

In this case, van der Bend fails to teach each and every element and feature of independent claim 1.¹ For example, and with reference to Figs. 3 and 4 of van der Bend, the disclosed device includes a frame 4 that is mounted on a carrier 2. The frame 4 includes a plurality of openings 5 that define test chambers 6. Each test chamber 6 receives absorbent material 8 (compared by the Examiner to the claimed “filter element”). That is, the absorbent material 8 is provided inside the opening 5 of the frame 4. Certainly then, the frame 4 is not secured on top of the absorbent material 8. The Examiner’s assertions to the contrary are simply incorrect.

To further illustrate the structural differences noted above, Applicant encloses marked up copies of Fig. 3 of van der Bend and Figs. 2 and 4 of the present application. In van der Bend, leakage of test substance can occur in the gap between the outer perimeter of the test element and the inner edge of the opening in which the test element is placed. This “leakage drawback” is discussed on page 3 (first paragraph) of the present application. In contrast, the claimed test plaster reduces (and possibly altogether eliminates) the risk of such leakage because the frame-shaped foam plastic layer is secured on top of and embraces the filter element.

Turning to the next point, the Examiner concludes that van der Bend’s absorbent material 8 is laminated with a moisture barrier layer 7. However, the reference merely indicates that the absorbent material 8 and the moisture barrier layer 7 are placed in the test chamber 6. Accordingly, van der Bend is not pertinent to the “laminated” feature defined by claim 1.

¹ Applicant encloses an English language translation of van der Bend for the Examiner’s review.

As demonstrated above, independent claim 1 recites features that are practically and conceptually different than van der Bend. Accordingly, Applicant respectfully requests the Examiner to reconsider and withdraw the raised anticipation rejection.

B. Independent claim 18:

Independent claim 18 is similar to claim 1 to the extent that claim 18 recites that the foam plastic layer is “*mounted on the filter element.*” Accordingly, claim 18 is believed to be patentable for reasons analogous to those noted above with respect to claim 1.

Claim 18 is also believed to be patentable because it recites (among other things) that the foam plastic layers of the test chambers are “*spaced apart from each other.*” An example, non-limiting embodiment of this feature is depicted in Fig. 1. Here, the foam plastic layers of the frame elements 24, which are mounted on the filter elements 17, are distributed over the carrier 10 in a spaced-apart fashion. Van der Bend is simply not pertinent to this feature because, as clearly shown in Fig. 3, a single frame 4 is provided with a plurality of openings 6 that define the test chambers.

C. Independent claim 20

Independent claim 20 is similar to claim 1 to the extent that claim 20 recites that the foam plastic layer is “*mounted on the filter element.*” Accordingly, claim 20 is believed to be patentable for reasons analogous to those noted above with respect to claim 1.

Claim 20 is also believed to be patentable because it recites (among other things) that the adhesive layer provided on the foam plastic layer includes “*an opening through which an interior of the test chamber is exposed.*” An example, non-limiting embodiment of this feature is depicted in Fig. 2. Here, the adhesive layer 26 includes an opening superposed above the test chamber 31. Van der Bend is simply not pertinent because, as shown in Fig. 3, the adhesive on the cover 9 extends over (and completely covers) each of the openings 6 in the frame 4.

CONCLUSION

In view of the above, Applicant earnestly solicit reconsideration and allowance of all of the pending claims.

US Application No. 10/501,555
Attorney Docket No. 10400-000111/US

Should there be any matters that need to be resolved in the present application, the Examiner is respectfully requested to contact the telephone number of the undersigned below.

Pursuant to 37 C.F.R. §§ 1.17 and 1.136(a), Applicant hereby petitions for a one (1) month extension of time for filing a reply to the Office Action and submit the required \$60.00 extension fee herewith.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

HARNESS, DICKEY & PIERCE, P.L.C.

By: Ray Heelin
Ray Heelin, Reg. No. 41,060
P.O. Box 8910
Reston, VA 20195
(703) 668-8000

HRH:amp

van der Bend

2/2



FIG.3

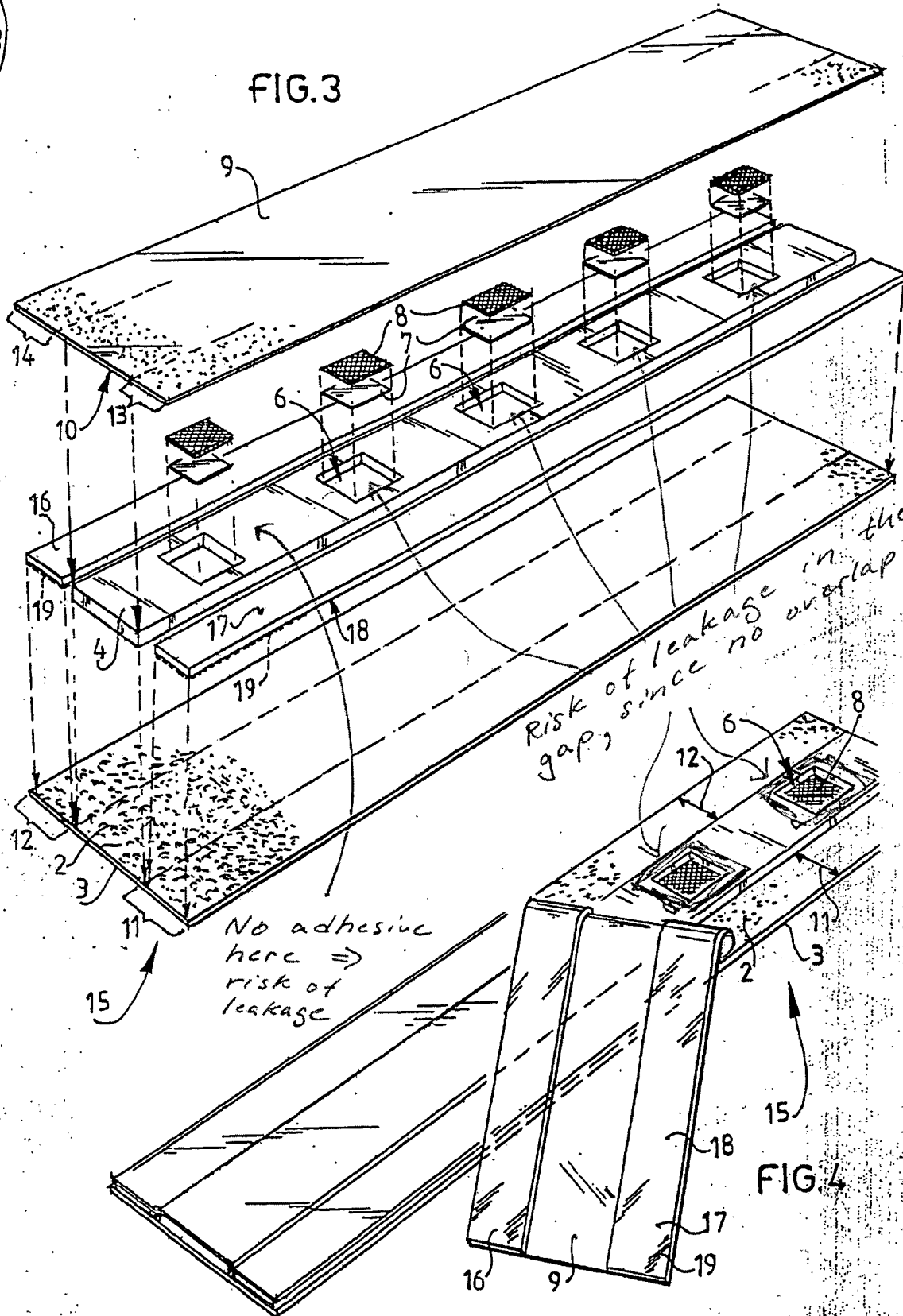


FIG.4

8701577



overlap \Rightarrow
no leakage

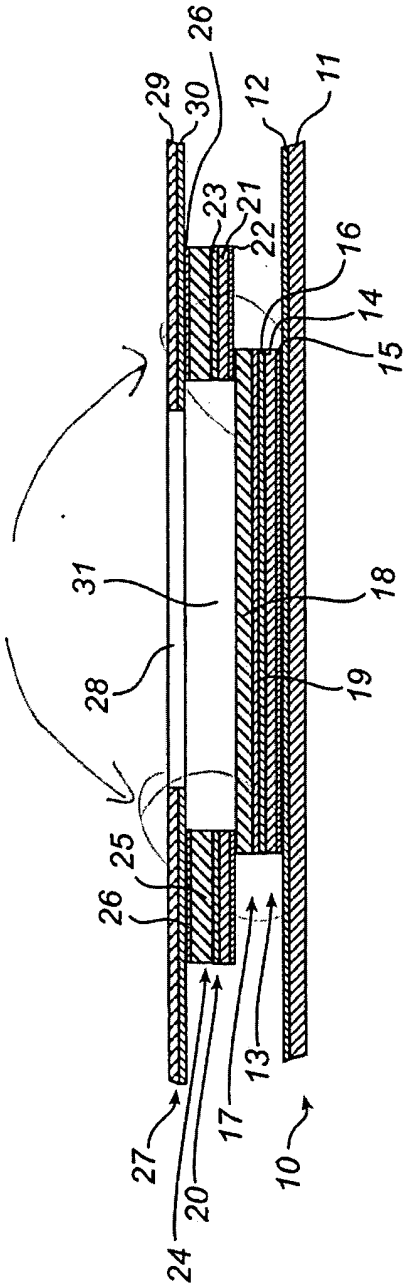


Fig. 2

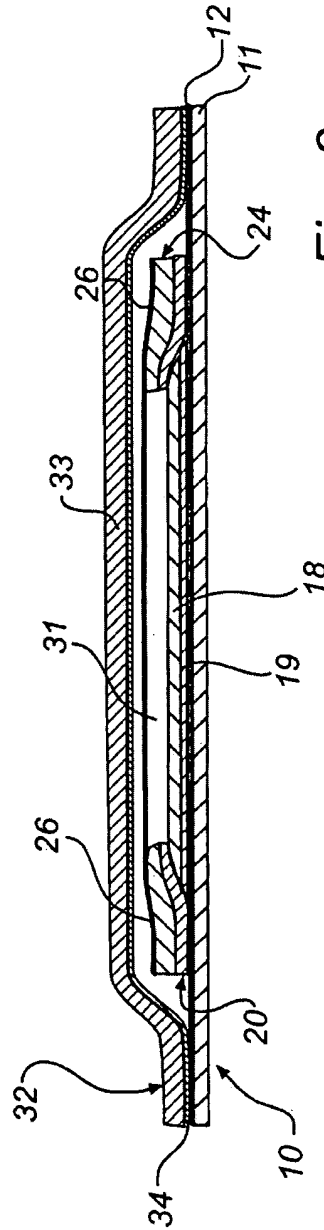


Fig. 3



Important feature:
 "... on top of and
 embracing/surrounding"
 No leakage! / 27

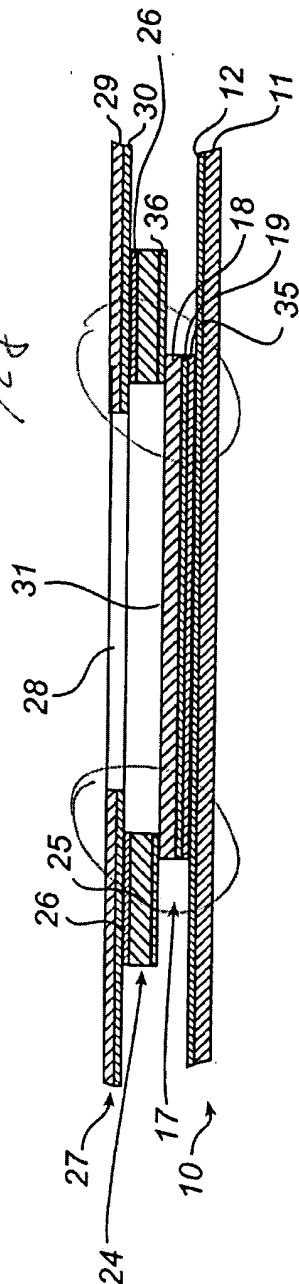


Fig. 4

3/3

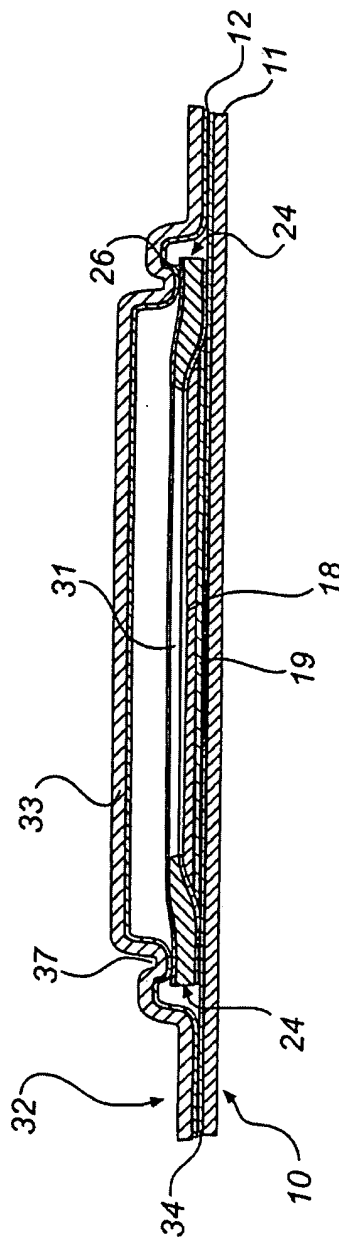


Fig. 5